

## Case Summary

### United States v. Phillip Morris

327 F. Supp 2d 21, (D.D.C 2004)

#### **Court Imposes Sanctions on Company for Violating an Order Preventing the Destruction of Email**

The court had initially ordered the defendants to retain all relevant documentation to the proceedings, as well as all emails. After the order, the defendant continued to destroy all email over 60 days old monthly on a system wide basis. The defendant became aware that its retention, or lack thereof, was not in compliance with either the court order, or the defendant's own document retention policy.

The defendant did not notify the court for four months after it initially realized that some of the documents, which were relevant to the proceedings, had been destroyed. Particularly troubling to the court was the fact that the eleven employees of the defendant who were identified as not having followed the defendant's documentation retention policy, were employees who held some of the highest positions with the most responsibility in the company.

#### **Decision**

The court imposed two sanctions upon the defendant; (1) That the defendant be precluded from calling as a witness, any individual who failed to comply with the defendant's own internal document retention program; and (2) that the defendant pay a monetary fine in the amount of \$2,500,000.00 to the court registry. The court also stipulated that the defendant would have to reimburse the United States for the costs associated with depositions on email destruction issues which totaled \$5,027.48.

Deletion of Electronic Documents